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STATUTORY INSTRUMENTS

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**2013 No. 1677**

**The Reservoirs Act 1975 (Capacity, Registration,  
Prescribed Forms, etc.) (England) Regulations 2013**

**Citation, commencement, extent and application**

1. These Regulations—
  - (a) may be cited as the Reservoirs Act 1975 (Capacity, Registration, Prescribed Forms, etc.) (England) Regulations 2013;
  - (b) come into force on 30th July 2013;
  - (c) extend to England and Wales; and
  - (d) apply in relation to reservoirs in England.

**Interpretation**

- 2.—(1) In these Regulations—
  - “the 1930 Act” means the Reservoirs (Safety Provisions) Act 1930<sup>(1)</sup>;
  - “the 1975 Act” means the Reservoirs Act 1975;
  - “Agency” means the Environment Agency;
  - “English register” means the register required to be established and maintained by the Agency under section 2(2) of the 1975 Act;
  - “lowest natural level of any part of the surrounding land” includes the lowest bed level of any watercourse;
  - “natural level” is the level of the natural land remaining after the construction or any alteration of a large raised reservoir;
  - “panel” means a panel of civil engineers constituted under section 4 of the 1975 Act<sup>(2)</sup>;
  - “structure” means a dam, reservoir wall or embankment;
  - “surrounding land” means the land adjacent to a large raised reservoir;
  - “toe” means the point on the downstream side of a structure forming part of the reservoir where its base meets the lowest natural level of any part of the surrounding land;
  - “top water level” means—
    - (a) in the case of a reservoir with a fixed overflow sill, the lowest crest level of that sill;
    - (b) in the case of a reservoir the overflow from which is controlled wholly or partly by moveable gates, syphons or otherwise, the maximum level to which water may be stored exclusive of any provision for flood storage; or

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<sup>(1)</sup> 1930 c.51. This Act was repealed with savings by the Reservoirs Act 1975, sections 23 and 28.

<sup>(2)</sup> Section 4 is amended in relation to England and Wales by the Flood and Water Management Act 2010, Schedule 4, paragraph 9 (see S.I. 2013/1590 (C.64), article 3 for relevant commencement provisions).

- (c) in the case of a reservoir designed for the purposes of holding back floodwater, the maximum level to which floodwater may be stored during any flood event exclusive of any provision for overflow.
- (2) In these Regulations—
  - (a) any information required or notification given must be in writing;
  - (b) a reference to any document or information includes that document or information in electronic form;
  - (c) any document or information communicated by electronic means shall be deemed—
    - (i) to have been sent where the sender can produce a copy of the electronic communication which—
      - (aa) contained the document or information;
      - (bb) shows the time and date the message was sent; and
      - (cc) shows that the document was sent to the recipient.
    - (ii) to have been sent by the person from whom it purports to originate; and
    - (iii) not to have been tampered with or otherwise modified;
  - (d) any requirement for a signature in a report, certificate or directions to which these Regulations apply may be satisfied by an electronic signature incorporated into the document;
  - (e) “electronic signature” means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.

### **Calculation of capacity of a large raised reservoir**

**3.—(1)** An undertaker must calculate the capacity of a large raised reservoir by measuring the maximum volume of water in cubic metres capable of being stored in the reservoir—

- (a) above the bed of the reservoir; and
- (b) between the toe of the reservoir and its top water level.
- (2) The calculation of the capacity of the reservoir must be completed by the earlier of—
  - (a) the date on which a final certificate is given for any purpose of the 1975 Act; and
  - (b) the date on which a certificate is given for the purposes of section 13(2) of the 1975 Act<sup>(3)</sup>.

(3) Water not capable of flowing out of the reservoir over natural ground in the event of an uncontrolled release of water shall not be included in the calculation.

(4) In this regulation “bed of the reservoir” includes any silt or other material that is judged by the engineer giving a final certificate, or giving a certificate under section 13(2) of the 1975 Act, to be incapable of flowing out of the reservoir over natural ground in the event of an uncontrolled release of water from the reservoir.

### **Registration requirements**

**4.—(1)** An undertaker must register a large raised reservoir with the Agency by providing the information described in Schedule 1, paragraphs 1 to 7.

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(3) Section 13 is amended in relation to England and Wales by the Flood and Water Management Act 2010, Schedule 4, paragraph 25 and by the Water Act 2003, section 74 (see [S.I. 2013/1590 \(C.64\)](#), article 3 and [S.I. 2004/2528 \(C.106\)](#), article 2(k) for relevant commencement provisions).

(2) The information must be registered before the end of the period of 28 days beginning with the day of the issue of a final certificate given in accordance with section 7 of the 1975 Act(4) in relation to—

- (a) the construction of a new reservoir;
- (b) the alteration of an existing structure of a reservoir that prior to its alteration was not a large raised reservoir; or
- (c) the alteration of the area of a reservoir that prior to its alteration was not a large raised reservoir.

### **Notification of changes to the English register**

5.—(1) Where there has been a change or addition to any of the information registered in accordance with regulation 4, the undertaker must provide the Agency with the relevant up to date information within 28 days beginning with—

- (a) the date on which the event leading to the change or addition to the information occurred; or, if later,
- (b) the date on which it becomes apparent to the undertaker that the event leading to the change or addition to the information occurred.

(2) The Agency may request confirmation from the undertaker that any or all of the information given by that undertaker for the purposes of the English register is up to date or complete.

(3) Where paragraph (2) applies, without prejudice to paragraphs (4), (6) and (8), the undertaker must within 28 days beginning with the day on which the Agency requests such confirmation—

- (a) confirm that the relevant information is up to date or, where any of that information is not up to date, provide the up to date information; and
- (b) where any of the information is not complete or is missing, provide the complete or missing information.

(4) Where an alteration so as to increase or decrease the capacity of a large raised reservoir is proposed to be carried out, the undertaker must notify the Agency not less than 28 days before the date of of any such alteration.

(5) A notification referred to in paragraph (4) must contain the following information—

- (a) the date of the proposed commencement of the alteration;
- (b) details necessary for the Agency to understand the nature and extent of the proposed work to the reservoir.

(6) Where it is proposed that the use of a large raised reservoir be abandoned under section 14 of the 1975 Act(5), the undertaker must notify the Agency not less than 28 days before any such proposed abandonment of use.

(7) A notification referred to in paragraph (6) must include the proposed commencement date of the abandonment of use.

(8) Where a construction, supervising or inspecting engineer is appointed, the undertaker must within 28 days beginning with the date of the appointment notify the Agency and inform it of the date of the appointment.

(9) The undertaker must notify the Agency within 28 days of the date on which an engineer ceases to be—

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(4) Section 7 is amended in relation to England and Wales by the Flood and Water Management Act 2010, Schedule 4, paragraphs 8 and 11 (see [S.I. 2013/1590 \(C.64\)](#), article 3 for relevant commencement provisions).

(5) Section 14 is amended in relation to England and Wales by the Flood and Water Management Act 2010, Schedule 4, paragraph 27 (see [S.I. 2013/1590 \(C.64\)](#), article 3 for relevant commencement provisions).

- (a) the construction engineer before that engineer has issued a final certificate, or
  - (b) the supervising engineer.
- (10) An undertaker who intends to cease being an undertaker must notify the Agency of—
- (a) the date on which the undertaker intends to cease being the undertaker;
  - (b) the name and address of the person who is intended to be the new undertaker;
  - (c) the date on which that person is intended to become the new undertaker.
- (11) Paragraphs (8) and (9) apply where a construction engineer is appointed to design and supervise any alteration to a large raised reservoir under section 6 of the 1975 Act<sup>(6)</sup>.

### **Keeping and inspection of the English register**

6.—(1) The English register and copies of that register must be kept at the principal office of the Agency's reservoir safety enforcement team<sup>(7)</sup>.

(2) The Agency must ensure that the English register contains the information described in Schedule 1, paragraphs 8 to 10 for each large raised reservoir.

### **The English register: transitional arrangements**

7.—(1) Where information about a large raised reservoir appeared in the English register immediately before 30th July 2013, that information shall be taken to have been provided by the undertaker in compliance with the obligation in section 2(2B) of the 1975 Act.

(2) Subject to paragraph (3), where any calculation of capacity of a large raised reservoir has been made for the purposes of the English register required to be kept immediately before the 30 July, that calculation shall be taken to have been provided for the purposes of registration.

(3) Paragraph (2) shall no longer apply from the earliest of—

- (a) the date on which a final certificate is given by a construction engineer for any purpose of the 1975 Act; and
- (b) the date on which a certificate is given for the purposes of section 13(2) of the 1975 Act.

### **Reports by the Agency to the Secretary of State**

8.—(1) The Agency must make reports to the Secretary of State under section 3(1) of the 1975 Act—

- (a) on or before 1st April 2015; and
- (b) on or before the date which is two years following the date by which the last report was due.

(2) The reports must give the following information—

- (a) the number of large raised reservoirs that have been registered;
- (b) the steps (if any) that the Agency has taken in respect of any large raised reservoir to secure that the undertakers of that reservoir have observed and complied with the requirements of the 1975 Act; and
- (c) if the Agency is the undertaker for any large raised reservoir, a statement as to—
  - (i) whether it has been required to take steps to observe and comply with the 1975 Act;
  - (ii) any steps it has taken in accordance with paragraph (i); and

<sup>(6)</sup> Section 6 is amended in relation to England and Wales by the Flood and Water Management Act 2010, Schedule 4, paragraphs 3 and 10 (see [S.I. 2011/2204 \(C.80\)](#), article 3(1)(e) and [S.I. 2013/1590 \(C.64\)](#), article 3 for relevant commencement provisions).

<sup>(7)</sup> The address of the principal office of the Agency's reservoir safety enforcement team is Reservoir Safety Team, Environment Agency, Manley House, Kestrel Way, Exeter, Devon EX2 7LQ.

(iii) the number of large raised reservoirs for which it is the undertaker.

### **Records of water levels etc.**

**9.**—(1) For the purposes of section 11(1) of the 1975 Act, the form of record to be kept for every high-risk reservoir must be the form prescribed in Schedule 2.

(2) In addition to the matters specified in section 11(1)(a) and (b) of the 1975 Act, the record must include the matters set out in Schedule 3.

(3) The information which is to be given about those matters which are specified in section 11(1) (a) and (b) of the 1975 Act must be that described in Parts 1 and 2 of the form of record in Schedule 2 and the information which is to be given about the additional matters set out in Schedule 3 must be that described in Parts 3 to 16 of that form.

### **Forms of certificates of engineers**

**10.**—(1) For the purposes of section 20(1) of the 1975 Act, a certificate must be in the form prescribed in Schedule 4.

(2) A certificate referred to in paragraph (1) is—

- (a) a preliminary certificate given under section 7(1) of the 1975 Act;
- (b) an interim certificate given under section 7(2) of the 1975 Act;
- (c) a final certificate given under section 7(3) of the 1975 Act;
- (d) a certificate of efficient execution of works given under section 7(6) or 8(7) of the 1975 Act<sup>(8)</sup>;
- (e) a certificate given under section 10(5)<sup>(9)</sup> of the 1975 Act as to the report of an inspecting engineer;
- (f) a certificate given under section 10(6) of the 1975 Act as to the carrying into effect of safety recommendations;
- (g) a certificate given under section 12AA(3) of the 1975 Act<sup>(10)</sup> as to the satisfaction of the requirements of a direction to prepare a flood plan;
- (h) an interim certificate given under section 13(1A) of the 1975 Act;
- (i) a certificate given under section 13(2) of the 1975 Act as to the completion and efficient execution of an alteration so as to discontinue a large raised reservoir;
- (j) a certificate given under section 14(3) of the 1975 Act as to an engineer's report's safety recommendations on abandonment;
- (k) a certificate given under section 15(2) of the 1975 Act<sup>(11)</sup> as to the carrying into effect of safety recommendations; or
- (l) a referee's certificate given under section 19(4) of the 1975 Act<sup>(12)</sup>.

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<sup>(8)</sup> Section 8 is amended in relation to England and Wales by the Flood and Water Management Act 2010, Schedule 4, paragraphs 3 and 11 and the Water Act 2003, section 75 (see [S.I. 2013/1590 \(C.64\)](#), article 3, and [S.I. 2004/641 \(C.24\)](#), article 3(t) for relevant commencement provisions).

<sup>(9)</sup> Section 10 is amended in relation to England and Wales by the Flood and Water Management Act 2010, Schedule 4, paragraphs 11 and 12 (see [S.I. 2013/1590 \(C.64\)](#), article 3 for relevant commencement provisions).

<sup>(10)</sup> Section 12AA is inserted in relation to England and Wales by the Flood and Water Management Act 2010, Schedule 4, paragraph 21 (see [S.I. 2013/1590 \(C.64\)](#), article 3 for relevant commencement provisions).

<sup>(11)</sup> Section 15 is amended in relation to England and Wales by the Flood and Water Management Act 2010, Schedule 4, paragraph 26 and the Water Act 2003, section 75 (see [S.I. 2013/1590 \(C.64\)](#), article 3, [S.I. 2004/64 \(C.24\)](#), article 3(t) and [S.I. 2004/2528 \(C.106\)](#), article 2(1) for relevant commencement provisions).

<sup>(12)</sup> Section 19 is amended in relation to England and Wales by the Flood and Water Management Act 2010, Schedule 4, paragraphs 14 and 22 (see [S.I. 2011/2204 \(C.80\)](#), article 3(1)(f) and [S.I. 2013/1590 \(C.64\)](#), article 3 for relevant commencement provisions).

### Forms of reports of engineers

**11.**—(1) For the purposes of section 20(1) of the 1975 Act, a report must be given in the form prescribed in Schedule 5.

(2) A report referred to in paragraph (1) is—

- (a) a report under section 8(2) of the 1975 Act of an engineer made on the construction or alteration of a large raised reservoir;
- (b) a report under section 9(1) of the 1975 Act of an engineer made before the re-use of an abandoned large raised reservoir;
- (c) a report under section 10(1) of the 1975 Act made following an engineer's inspection of a high-risk reservoir;
- (d) a report under section 14(1) of the 1975 Act of an engineer's safety recommendations made on abandonment of a large raised reservoir.

### Forms of directions of engineers

**12.**—(1) For the purposes of section 20(1) of the 1975 Act, a direction of an engineer must be given in the form prescribed in Schedule 6.

(2) A direction referred to in paragraph (1) is—

- (a) a direction made under section 11(2) of the 1975 Act (recording of water levels etc);
- (b) a direction made under section 12(6) of the 1975 Act<sup>(13)</sup> (supervision of reservoirs: visual inspection by undertaker);
- (c) a direction made under section 12AA(4) of the 1975 Act (flood plans: testing);
- (d) a direction made under section 12AA(7) of the 1975 Act (flood plans: revision); or
- (e) a direction made under section 19(4A) of the 1975 Act (reference of disputed recommendations to a referee: direction to engineer to issue a certificate).

### Prescribed information under section 21(1) to be provided by undertakers when intending to construct or bring back into use a large raised reservoir

**13.** In a notice served under section 21(1) of the 1975 Act, the undertakers must give the Agency the information prescribed in Schedule 7.

### Reports to the Agency

**14.**—(1) This regulation applies in relation to any incident—

- (a) which results, or could result, in the uncontrolled release of water from a large raised reservoir; and
- (b) in respect of which emergency measures have been taken to prevent any or any further uncontrolled release of water and to minimise the danger to human life.

(2) Where this regulation applies, the undertaker must send to the Agency—

- (a) a preliminary report of the incident as soon as practicable after the commencement of the emergency measures referred to in paragraph (1)(b); and
- (b) a final report of the incident within one year beginning with the day after the day on which the emergency measures were commenced.

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<sup>(13)</sup> Section 12 is amended in relation to England and Wales by the Flood and Water Management Act 2010, Schedule 4, paragraph 17 (see [S.I. 2013/1590 \(C.64\)](#), article 3 for relevant commencement provisions).

(3) The preliminary report referred to in paragraph (2)(a) must contain sufficient particulars to enable the Agency to ascertain the date and time of the incident, the location of the reservoir and immediately observable facts.

(4) The final report of the incident referred to in paragraph (2)(b) must contain sufficient—

- (a) information about the facts relating to it;
- (b) analysis of its circumstances;
- (c) particulars to demonstrate the conclusions that can be drawn from it;
- (d) particulars to demonstrate the lessons learned from it.

(5) The Agency may direct an undertaker to prepare a revision to the final report in relation to such matters as the Agency notifies to the undertaker provided the Agency has—

- (a) explained to the undertaker why it believes each revision to the report is necessary, and
- (b) specified a period, not less than three months, within which the undertaker must make the revisions.

(6) Revisions to the final report shall not be effective unless—

- (a) the undertaker has sent a version of the report to the Agency which incorporates the revisions notified by the Agency, and
- (b) the Agency has accepted the revisions.

## **Review**

**15.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) The first report under this regulation must be published before the end of the period of 5 years beginning on the day on which these Regulations come into force.

(4) Reports under this regulation must afterwards be published at intervals not exceeding 5 years.

## **Revocations**

**16.** The following Regulations are revoked—

- (a) the Reservoirs Act 1975 (Registers, Reports and Records) Regulations 1985(**14**);
- (b) the Reservoirs Act 1975 (Registers, Reports and Records) (Amendment) Regulations 1985(**15**);
- (c) the Reservoirs Act 1975 (Certificates, Reports and Prescribed Information) Regulations 1986(**16**).

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(14) [S.I. 1985/177](#).

(15) [S.I. 1985/548](#).

(16) [S.I. 1986/468](#).

3rd July 2013

*de Mauley*  
Parliamentary Under Secretary of State  
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